

memorandum

DATE: August 7, 2002

REPLY TO
ATTN OF: Office of Environmental Policy and Guidance: Boulos: 6-1306

SUBJECT: Proposed Clean Air Act Rule Related to National Emission Standards for Hazardous Air Pollutants for Site Remediation Activities, for Review and Comment

TO: Distribution

The purpose of this memorandum is to solicit comments from Department of Energy (DOE) program offices and field organizations on the Environmental Protection Agency's (EPA's) notice of proposed rulemaking, "National Emission Standards for Hazardous Air Pollutants: Site Remediation." The proposed rule (67 *FR* 49397; July 30, 2002) is available at the Office of Environmental Policy and Guidance (EH-41) Home Page at: <http://www.eh.doe.gov/oepa/rules/67/67fr49397.pdf>.

In this proposed rule, the EPA is amending 40 *CFR*, Chapter I, Part 63 by adding a new Subpart GGGGG, "National Emission Standards for Hazardous Air Pollutants (NESHAP) for Site Remediation." The regulations propose national emissions limitations and work practice standards for hazardous air pollutants (HAP) emitted from three groups of emission points: (1) process vents; (2) remediation material management units (i.e., tanks, containers, surface impoundments, oil/water separators, organic/water separators, drain systems); and (3) equipment leaks. Process vents would be required to vent emissions to an air pollution control device. Remediation material management units would be required to control emissions by using a floating cover or a fixed roof cover and venting to an air pollution control device. To control equipment leaks, a leak detection and repair program would be required for equipment (e.g., pumps, compressors, valves, and connectors) involved in remediation.

Facilities would have to meet the following three criteria to be subject to these regulations (with certain exceptions, as discussed in the next paragraph): (1) the facility must be a major source of HAP emissions; (2) a maximum achievable control (MACT) activity is conducted at the facility; and (3) a remediation activity is conducted at the facility. A "MACT activity" is a non-remediation activity that is covered by one of the listed major source categories for HAP. The term "covered" here does not mean that the non-remediation activity is necessarily subject to a MACT standard, but just that the activity is included within the scope of a particular MACT source category (67 *FR* 49405).


Proposed exemptions to the rule include the following:

1. The facility is a research and development facility, consistent with Section 112(b)(7) of the Clean Air Act; or
2. The remediation is performed under the authority of the Comprehensive Environmental Response and Compensation Liability (CERCLA) Act; or

3. The remediation is a corrective action activity initiated under permits or orders, including such activities under authorized State programs, at Resource Conservation and Recovery Act (RCRA) Treatment, Storage and Disposal facilities; or
4. The remediation involves the cleanup of radioactive mixed waste managed in accordance with all applicable regulations under Atomic Energy Act and Nuclear Waste Policy Act authorities; or
5. The facility is able to demonstrate that the total annual organic HAP mass content of the remediation material to be cleaned up at the facility is less than one megagram (i.e., one million grams) per year; or
6. The remediation is for a spill or leak for which the contamination requiring remediation occurs within seven days prior to the remediation activity.

The regulations also propose requirements for remediation material sent off-site, testing and initial compliance requirements, continuous compliance provisions, and notification, recordkeeping, and reporting requirements.

Because this rulemaking may be important for the Department's existing and future remediation activities, we recommend a careful review of the proposal. Please submit your comments by September 16, 2002, to Mr. Emile Boulos of my staff at: emile.boulos@eh.doe.gov; 202-586-1306. In developing comments, please indicate the specific page and section of the preamble of the *Federal Register* to which each comment pertains. Also, to assist us in our regulatory tracking activities, we ask that you notify Mr. Boulos if a DOE source under your responsibility would be subject to these regulations. Questions or concerns regarding this memorandum should be directed to Mr. Boulos or to Ted Koss (theodore.koss@eh.doe.gov; 202-586-7964) of my staff.



Andy Lawrence
Director
Office of Environmental Policy and Guidance